

REMARKS/ARGUMENTS

Claims 13-21 and 24 are pending in this application.

Claims 13-21 and 24 have been amended as indicated hereinabove.

Claims 1-12 and 22-23 have been canceled without prejudice or disclaimer.

The support for the amendments to Claim 13 may be found in paragraphs [0033], [0045], and [0050]-[0052] of the Specification as originally filed, Claims 5, 11, and 22-24 as originally filed, and Fig. 8 as originally filed.

Claims 13-21 and 24 had been rejected under 35 U.S.C. § 102(b) over E.-B. Kley and B. Schnabel, *E-Beam lithography: a suitable technology for fabrication of high-accuracy 2D and 3D surface profiles*, 2640 Proc. SPIE 71 (1995). This rejection is respectfully traversed for the following reasons.

Unless a publication discloses within the four corners of the document not only all of the elements and limitations claimed but also all of the elements and limitations arranged or combined in the same way as recited in the claim, it cannot be said to prove prior invention of the thing claimed and, thus, cannot anticipate under 35 U.S.C. § 102.¹

Kley and Schnabel do not disclose determining a contrast curve, as recited in Claims 13-21 and 24, as amended; Kley and Schnabel only mention (page 72, last two lines, - page 73, first two lines) that it is important that all parameter match between each other. Kley and Schnabel do not disclose determining a contrast curve in a systematic manner with regard to the various parameters.

Kley and Schnabel do not disclose calculating a scattering cone from the defined pattern (lines) written in the resist, as recited in Claims 13-21 and 24, as amended.

¹ *Net MoneyIN, Inc. v. VeriSign, Inc.*, 545 F.3d 1359, 1369 (Fed. Cir. 2008) (quoting *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 1548 (Fed. Cir. 1983))

Claims 13-21 and 24, as amended, recite determining the electron dose distribution of the scattering cone and the resulting resist thickness distribution. Kley and Schnabel do not disclose determining a specific regime to allow the user to configure the electron beam system to achieve a desired continuous profile.

Since the discussed elements of Claims 13-21 and 24, as amended, are not disclosed by Kley and Schnabel, Claims 13-21 and 24, as amended, are not anticipated by and are patentable over Kley and Schnabel under 35 U.S.C. § 102(b) and should be allowed.

It is believed that the present application is in condition for allowance. A Notice of Allowance is respectfully solicited in this case. Should any questions arise, the Examiner is encouraged to contact the undersigned.

Respectfully submitted,

HOUSTON ELISEEVA LLP

By /Maria M. Eliseeva/

Maria M. Eliseeva
Registration No.: 43,328
Tel.: 781 863 9991
Fax: 781 863 9931

4 Militia Drive, Suite 4
Lexington, Massachusetts 02421-4705
Date: July 30, 2010